IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 7TH MARCH 2007 / 16TH PHALGUNA 1928

Crl.MC.No. 622 of 2007()

CC.348/2005 of CHIEF JUDL.MAGISTRATE, ERNAKULAM

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PETITIONER: ACCUSED

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1. REGI VARGHESE, AGED 34,
S/O. P.C.VARGHESE, PAYAYIL HOUSE,
PUTHUPPILLY P.O., KOTTAYAM.

2. PREMANDAN, S/O. RAJAPPAN,
KARIYIL HOUSE, KURUCHI P.O., KOTTAYAM.

BY ADV. SRI.JOBI.A.THAMPI
SRI.U.R.HARSHAKUMAR
SRI.NOBY M.JOSEPH

RESPONDENTS: DE-FACTO COMPLAINANT & STATE

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1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. M/S. SREERAM TRANSPORT FINANCE COMPANY
LTD., S.H.MOUNT, KOTTAYAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 07/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.622 of 2007

Dated this the 7th day of March, 2007

ORDER

Petitioners are the accused in a prosecution - C.C.No.348 of 2005 (Crime No.562 of 2005 of Central Police Station, Ernakulam) pending before the Chief Judicial Magistrate, Ernakulam, inter alia, under Sections 420 and 406 read with 34 I.P.C. The petitioners have not appeared before the learned Magistrate. According to them, no processes of the court was ever served on them. But the learned Magistrate has now issued non bailable warrants to procure the presence of the petitioners. The petitioners are prepared to surrender before the learned Magistrate. But they apprehend that the learned Magistrate may not consider their application for bail on merits, in accordance with law and expeditiously. In these circumstances, they have come to this Court for issue of directions under Section 482 Cr.P.C to the learned Magistrate to release them on bail on the date of their appearance itself.

2. I find absolutely no reason to invoke the powers under Section 482 Cr.P.C. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not earlier appear before the learned Magistrate. I have no reason to assume that the learned

Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

3. This Crl.M.C is, in these circumstances, dismissed. But with the specific observation that if the petitioners appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

H/O.

(R.BASANT, JUDGE)

rtr/-